



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## REGION 8

2006 DEC 15 PM 12:46

999 18<sup>TH</sup> STREET- SUITE 300

**DENVER, CO 80202-2466**

**Phone 800-227-8917**

**<http://www.epa.gov/region08>**

FILED  
EPA REGION VIII  
HEARING CLERK

**DOCKET NO.: CWA-08-2006-0026**

IN THE MATTER OF:

**J & J OIL OPERATIONS, INC.**

RESPONDENT

## FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 15<sup>th</sup> Day of December, 2006

Elwood

Elyana R. Sutin  
Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2006 DEC 15 PM 12:46

IN THE MATTER OF ) Docket No. CWA-08-2006-0026  
)  
J & J Oil Operations, Inc. )  
Provo, Utah ) **CONSENT AGREEMENT**  
)  
Respondent. )

FILED  
EPA REGION VIII  
HEARING CLERK

Complainant, United States Environmental Protection Agency Region 8 ("EPA"), and Respondent, J & J Oil Operations, Inc. ("Respondent"), hereby consent and agree as follows.

1. On or about April 28, 2006, Complainant issued to Respondent an Administrative Complaint alleging certain violations of 40 CFR Part 112 and section 311(j) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. §1321(j), as amended by the Oil Pollution Act of 1990.

2. This Consent Agreement shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

3. Respondent admits that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives right to a hearing, any defenses they might have as to jurisdiction and venue, admits the factual allegations contained in the Complaint, and consents to the terms of this Consent Agreement (CA).

4. Respondent, by executing this CA, hereby certifies to EPA that they are now in compliance with each of the relevant provisions of section 311(j) of the Act, 33 U.S.C. §1321(j) and 40 CFR Part 112.

5. Respondent consents to the issuance of a Final Order and consents for the purposes of settlement to the payment of a civil penalty in the amount of thirty-two thousand

dollars (\$32,000.00).

6. Respondent consents and agrees to pay a civil penalty in the amount of thirty-two thousand dollars (\$32,000) in four quarterly installments as follows:

1st payment of \$8,000 due on January 31, 2007;

2<sup>nd</sup> payment of \$8,000 due on April 30, 2007;

3<sup>rd</sup> payment of \$8,000 due on July 31, 2007; and

4<sup>th</sup> payment of \$8,000 due on October 31, 2007.

7. Respondent consents and agrees to make each and all installments referenced in the preceding paragraph in the manner described below in this paragraph:

a. **Payment is due on the date stated in paragraph 6 of this CA** as ordered by the Regional Judicial Officer in the Final Order that adopts this CA. The date the installment payment is made is considered to be the date processed by the Bank described below. Payments received by 11:00 AM. EST are processed on the same day, those received after 11:00 AM are processed on the next business day.

b. The installment payment shall be made by remitting a cashier's or certified check, including the **name and docket number of this case**, referencing "Oil Spill Liability Trust Fund-311," for the amount, **payable to the "Environmental Protection Agency,"** to:

**US checks by regular  
US postal service mail:**

U.S. Environmental Protection Agency  
P.O. Box 371099M  
Pittsburgh, PA 15251

**Federal Express, Airborne,  
or other commercial carrier:**

Mellon Client Service Center  
ATTN: Shift Supervisor  
Lockbox 371099M Account 9109125  
500 Ross Street  
Pittsburgh, PA 15251-0001

**Wire Transfers :**

Mellon Bank  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh PA 15235

A copy of the check shall be sent simultaneously to:

Donna K. Inman  
Technical Enforcement Program (8ENF-T)  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202

Tina Artemis  
Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
1595 Wynkoop  
Denver, CO 80202

c. **In the event that any one installment payment is not received by the specified due date, interest accrues from the date of the final consent order, not the specified installment due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1<sup>st</sup> late day, 30 days of interest accrues).**

d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31<sup>st</sup> day from the due date of the 1<sup>st</sup> installment payment, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121<sup>st</sup> day from the due date of the 1<sup>st</sup> installment payment). Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.

e. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

8. Failure by Respondent to comply with any of the terms of this CA shall constitute a breach of the CA and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

9. Nothing in this CA shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this CA.

10. This CA constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in the Complaint. Nothing in this CA is intended to nor shall be construed to operate in any way to resolve any criminal liability, if any. Compliance with this CA shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

11. Each undersigned representative of the parties to this CA certifies that he/she is fully authorized by the party represented to enter into the terms and conditions of this CA and to execute and legally bind that party to it.

12. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CA.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY REGION 8  
Complainant.**

Date: 12/13/06

By: Elisabeth Evans  
Elisabeth Evans  
Director  
Technical Enforcement Program

Date: 12/13/06

By: Michael T. Risner  
Michael T. Risner, Director  
David Janik, Supervisor  
Legal Enforcement Program

Date: 12/13/2006

By: \_\_\_\_\_

Marc Weiner, Attorney  
Legal Enforcement Program

**J & J Oil Operations, Inc.,  
Respondent.**

Date: 11/22/2006

By: \_\_\_\_\_

Authorized Representative for Respondent

TERENCE C. JENKINS  
(Print name of signatory)

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **J & J OPERATIONS, INC., DOCKET NO.: CWA-08-2006-0026** was filed with the Regional Hearing Clerk on December 15, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Marc Weiner, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on December 15, 2006, to:

Terry Jenkins  
P. O. Box 55  
Midvale, UT 84047

Ronald P. Jenkins  
J & J Oil Operations, Inc.  
P. O. Box 1356  
Cedar City, UT 84721-1356

Pouch Mailed to:

Honorable Carl Charneski  
Administrative Law Judge (1900L)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Regular Mail to:

U. S. Coast Guard  
Commander  
Finance Center (OGR)  
1430 A Kristina Way  
Chesapeake, VA 23326

And faxed to:

Michelle Angel  
U. S. Environmental Protection Agency  
Cincinnati Finance Center Accounting  
Fax: 513-487-2063

December 15, 2006



Tina Artemis  
Regional Hearing Clerk/Paralegal



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